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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 INDIANA LOW INCOME AND
9 ELDERLY HOUSING DEVELOPMENT
10 CORPORATION,

11 Plaintiff,

12 v.

13 ROGER DUVAL,

14 Defendant.

15 CASE NO. C14-5222 BHS
16 ORDER DISMISSING
17 COMPLAINT

18 This matter comes before the Court on review of Indiana Low Income and Elderly
19 Housing Development Corporation’s (“Plaintiff”) complaint. Dkt. 1.

20 Plaintiff alleges that Defendant Roger Duval, an Indiana State judge, abused his
21 power when he signed a divorce decree. *Id.*

22 A federal court may dismiss *sua sponte* pursuant to Fed. R. Civ. P. 12(b)(6) when
it is clear that the plaintiff has not stated a claim upon which relief may be granted. *See*
Omar v. Sea Land Serv., Inc., 813 F.2d 986, 991 (9th Cir. 1987) (“A trial court may
dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6) Such a dismissal may be
made without notice where the claimant cannot possibly win relief.”). *See also Mallard*

1 *v. United States Dist. Court*, 490 U.S. 296, 307 (1989) (there is little doubt a federal court
2 would have the power to dismiss frivolous complaint *sua sponte*, even in absence of an
3 express statutory provision). A complaint is frivolous when it has no arguable basis in
4 law or fact. *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

In this case, Plaintiff's complaint is frivolous because it has no arguable basis in law or fact. Not only does the Court lack jurisdiction to hear a claim against an Indiana State judge acting in his official capacity, but the judge is also entitled to absolute judicial immunity while acting in his official capacity. Therefore, the Court **DISMISSES** Plaintiff's complaint.

IT IS SO ORDERED.

Dated this 27th day of March, 2014.



BENJAMIN H. SETTLE
United States District Judge